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Written statement*/ submitted by Human Rights Advocates, Inc.,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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ENG

The impact of toxic wastes on human rights

1. The Special Rapporteur on toxic waste was appointed in 1995 to study and monitor the adverse effects of the illicit transboundary transport and dumping of toxic substances on the enjoyment of human rights. The Special Rapporteur has successfully brought international attention to the illicit transport and dumping of toxic substances. However, the limitations of her mandate have prevented her from engaging in a comprehensive study of the effects of toxics on human rights.

2. The Bureau on the Commission on Human Rights suggested in its 1998 Report that the mandate of the Special Rapporteur on toxic wastes be expanded to include human rights and the environment. [1] In its 1999 report, the Commission reaffirmed its earlier position by recommending a conversion of the mandate of the Special Rapporteur on toxic wastes into that of a Special Rapporteur on human rights and the environment. [2]

3. Chemical releases and the dumping of toxic wastes directly impact the human rights of individuals throughout the world. Hundreds of millions of people are exposed to toxics through air, water and land pollution related to industrial development and illicit waste disposal practices. High levels of particulates have been associated with respiratory disease and increased mortality. Alarmingly, acute respiratory disease is now the leading cause of death among children worldwide, killing an estimated 5 million young children per year. [3] Toxic exposure can impair the fulfillment of human rights, including the right to life, family and privacy rights, and the right to health. The re-appointment of a Special Rapporteur on toxics is critical to continued progress in understanding how toxics affect human rights. It is imperative that the current mandate be clarified to include a more comprehensive look at the effects of toxics on human rights.

Toxics generated during armed conflict and their effects on human rights

4. During the Gulf War, environmental casualties included the burning of 600-700 oil wells and the leakage of 6-8 million barrels of oil into the marine environment. During the bombings, many of the missiles were coated with depleted uranium (DU), a nuclear waste that burns on contact, producing a fine dust which can be ingested and inhaled, and which enters the food chain through water and soil. [4]

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[1] Commission on Human Rights Res. 1998/12, U.N. Hum.Rts.Comm'n, 54th Sess., at 3, U.N. Doc. E/CN.4/1998/L.2 (1998).

[2] Commission on Human Rights 1999/12, U.N. Hum.Rts.Comm'n 55th Sess. at 14., U.N. Doc. E/CN.4/1999/104 .

[3] Non-Governmental Position Paper on Critical Needs to Address Children's Environmental Health, Section A-1.

[4] Question of the Violation of Human Rights and Fundamental Freedoms in any Part of the World, Promotion and Protection of Human Rights: Science and Environment, U.N. Doc. E/CN.4/2000/121 (February 16, 2000), p. 2.

(a) Approximately 350 tons of DU weapons were used by the allies in the Gulf War. When lodged in the body, DU particles emit damaging radiation indefinitely and can poison chemically through their effect as a heavy metal. [5] According to the report from the DU Conference held in Baghdad in December 1998, it is estimated that 5% of Iraqi babies are born with congenital anomalies, and over 2% are born dead. Iraqi doctors also report major increases in every form of cancer, including childhood leukemia.[6] Additionally, a 55% increase in cancer has been reported in Iraq between 1989 and 1994 – a result of DU residues in the soil, air and water. [7]

(b) In the United States, many medical doctors and war veterans hold DU responsible for causing Gulf War syndrome, the symptoms of which resemble radiation sickness. There presently exists no effective treatment for those affected.

(c) Despite the known destructive forces of DU, it was again used in 1995 in Bosnia, where cancers rose threefold by 1997. [8] According to a UN task force, US jets fired 31,000 DU shells during the war.[9] Radiation readings in Hungary, Bulgaria and Greece have since recorded air samples exceeding 40 times the recommended safety limit of radiation associated with DU. [10]

The role of multinational corporations in generating toxics which adversely affect human rights

5. In May 2000, the Sub-Commission on the Promotion and Protection of Human Rights addressed the principles relating to the human rights conduct of multinational companies. The Sub-Commission's Working Group on the Working Methods and Activities of Transnational Corporations produced a report[11] stating that some multinational corporations do not respect minimum international human rights standards, and can thus be implicated in abuses related to toxic wastes. Due to these abuses and a lack of oversight of multinational corporations, many human rights violations have occurred. To improve oversight of multinational corporations and to protect human rights, the Sub-Commission's report proposed a draft human rights code, under which multinationals will be bound to assess the impact of their activities on the environment or human health.

6. The UN has played an active role in demanding corporate accountability, and in June 2000 the Economic and Social Council produced a report on globalization and its impact on human rights, urging reform in the rules of international trade, investment and finance.[12]

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[5] Depleted Uranium Research Center, (visited January 14, 1999) <http://asterix.ohys.unm.edu:8000>.
[6] Depleted Uranium Research Center, (visited January 14, 1999) <http://asterix.ohys.unm.edu:8000>.
[7] Ocean Update May 1998, (visited October 8, 2000) <http://www.seaweb.org/ resources/17update/persia.html>.
[8] Question of the Violation of Human Rights and Fundamental Freedoms in any Part of the World, U.N. Doc. E/CN.4/2000/121 (February 16, 2000), p. 4.
[9] Claude Morgan, "Eco-Crisis Feared in Yugoslavia", San Francisco Chronicle, August 11, 2000, p. A14.
[10] Id.
[11] David Weissbrodt, Principles Relating to the Human Rights Conduct of Companies, U.N. Doc. E/CN.4/Sub.2/2000/WG.2/WP.1 (May 25, 2000).
[12] J. Oloka-Onyango and Deepika Udagama, Globalization and its Impact on the Full Enjoyment of Human Rights,

However, there remains an urgent need for a Special Rapporteur to monitor and evaluate the practices of multinational corporations that violate human rights. Toxic chemicals used in the process and production of oil, if not handled properly, can have serious impacts on human health, particularly the health of children who are more sensitive to environmental health hazards.

a. Oil exploration by multinational corporations in Colombia has yielded environmental harms such as air pollution, river, lake and soil contamination, death of wildlife, land degradation, and climatic change.[13] The unfettered dumping at the hands of multinational corporations has violated international standards, and has had serious effects on human rights. Gas flaring has contributed greatly to air pollution, which presents health hazards such as respiratory disease, especially among children. In fact, exposure to unclean air has emerged as one of the most serious threats to a child's health, both in developing countries and developed countries alike.[14]

b. On average, three major multinational corporation oil spills are recorded monthly in the Niger Delta.[15] One leak reportedly spilled more than 800,000 barrels of crude.[16] In the Ogoniland district, the effects of oil exploration are still vivid 7 years after its cessation: well water in many areas is unsafe to drink and crops do not grow.[17]

(i) Hundreds of gas flares burning steadily in the Niger Delta for 30 to 40 years have polluted the air with carbon dioxide and methane, contributing to the release of "greenhouse gases" into the atmosphere, and also to acid rain.[18] The acid rain has destroyed plant and wildlife, and caused humans to suffer from respiratory diseases.[19]

c. From 1972 to 1992, multinational corporations built more than 300 oil wells in the Oriente region of Ecuador, and constructed a 300-mile trans-Ecuadorian pipeline that shipped 1.4 billion barrels of oil.[20] Between 1972 and 1990, more than 20 billion gallons of toxic waste water and 16 million gallons of crude oil were dumped into the Amazon forest, contaminating the soil and groundwater.[21] As a result, cancer rates, spontaneous abortions and respiratory infections among local populations have dramatically increased.[22]

U.N. Doc. E/CN.4/Sub.2/2000/13.

[13] Scott Holwick, *Transnational Corporate Behavior and Its Disparate Unjust Effects on the Indigenous Cultures and the Environment of Developing Nations*, 11 Colo.J.Int'l Envtl.L & Pol'y 183, 192 (2000).

[14] Non-Governmental Position Paper on Critical Needs to Address Children's Environmental Health, Section B2.

[15] Alfredo Quarto, In a Land of Oil and Agony: Nigeria, Earth Island Journal, June 22, 2000. No.2, vol.15, page 7.

[16] Alfredo Quarto, In a Land of Oil and Agony: Nigeria, Earth Island Journal, June 22, 2000. No.2, vol.15, page 7.

[17] "Danger Zones: Nigeria", (visited September 11, 2000), <http://www.amnestyusa.org/ justearth/countries/ nigeria.html>.

[18] Alfredo Quarto, In a Land of Oil and Agony: Nigeria, Earth Island Journal, June 22, 2000. No.2, vol.15, page 7.

[19] Joshua P. Eaton, *The Nigerian Tragedy, Environmental Regulation of Transnational Corporations, and the Human Right to a Healthy Environment*, 15 B.U.Int'l L.J. 261, 269 (1997).

[20] Maura Mullen de Bolivar, *A Comparison of Protecting the Environmental Interests of Latin American Indigenous Communities from Transnational Corporations under International Human Rights and Environmental Law*, 8 J.Transnat'l L.& Pol'y 105, 111 (1998).

[21] Danger Zones: Ecuador, (visited November 6, 2000) <http://www.amnestyusa.org/justearth/countries/ ecuador2.html>.

[22] Id.

Contaminated water and its effect on the rights to health and life

7. The Ad Hoc Committee of the Nineteenth Special Session of the General Assembly reported that one-fifth of the world population does not have access to safe drinking water, and more than one half lack adequate sanitation.[23] Over 1 billion people drink unsafe water, 2.3 billion have no sanitation and 7 million die from water-related diseases each year.[24] UN water experts estimate that 5,000 children die every day from waterborne illnesses.[25]

8. By a resolution adopted in April 2000, the OECD sought to define the right to drinking water by establishing as closely as possible its relationship to other human rights. The OECD proposed that governments and international bodies explicitly recognize the right to water for all persons.

(a) In Israel, along the Gaza Strip, the poor water quality severely affects the standard of living of the residents and exposes them to serious health hazards. The only local source of water is the Gaza Aquifier, which provides 96% of the area's drinking water.[26] A 1995 water quality study used for domestic purposes showed that, of all the water extracted from the Aquifier, only 7% met the World Health Organization's (WHO) recommended standard.[27]

(b) The Danube River has become highly polluted since the Balkan War. NATO continuously bombed the Petrohemija petroleum processing plants in Pancevo. Fearing explosions, workers at the plants released 1,400 tons of carcinogenic ethylene dichloride and 800 tons of hydrogen chloride into the Danube River.[28] In addition, bombing attacks in the northern Vojvodina region centered on oil refineries and storage facilities on the banks of the Danube, and produced a nine mile long oil spill.[29]

(c) The lower Danube is a source of drinking water for up to 10 million people.[30] The region's underground water resources, which serve about 90% of Serbia's domestic and industrial needs, are now at risk. Long term effects will likely include a build up

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[23] Promotion and Protection of Human Rights: Science and Environment, U.N. Doc. E/CN.4/1999/89 (December 22 1998).

[24] World Water Commission recommends privatization of water supplies, World Socialist Web Site (visited December 12, 2000) <http://www.wsws.org/articles/2000/mar2000/wtat-m20.html>.

[25] United Nations Wire: An Independent News Briefing About the UN (visited December 12, 2000) <http://www.unfoundation.org/unwire/archives>.

[26] Yehezkel Lein, *Thirsty for a Solution*, B'Tselem Israeli Information Center for Human Rights in the Occupied Territories, Position Paper July 2000, p. 65.

[27] Yehezkel Lein, *Thirsty for a Solution*, B'Tselem Israeli Information Center for Human Rights in the Occupied Territories, Position Paper July 2000, p. 66.

[28] Phillip Frazer, *What NATO's Bombs Did to the Environment*, Earth Island Journal, Winter 1999/2000 Vol. 14, No.4.

[29] Id.

[30] "WWF Calls For Immediate Environmental protection and recovery plan for Balkans", May 7, 1999, (visited October 3, 2000) <http://www.wwf.org/news/press/news.cfm>.

of toxins in the food chain and inability to reproduce among some species, resulting in further depletion of fish as a source of food in the region. [31]

Recommendations

9. HRA recommends the following actions:

(a) Re-appoint a Special Rapporteur on toxics with a clarified mandate to investigate and report on complaints and abuses involving chemicals and toxic dumping, particularly by multinational corporations, and their effects on human rights.

(b) Request better coordination with other UN bodies such as the Commission on Sustainable Development to incorporate concern for the effects of toxics on human rights into their respective existing efforts.

(c) Coordinate with the Sub-Commission's Working Group,"[32] which focuses on the effects of activities of multinational corporations on the enjoyment of human rights.

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[31] Id.

[32] Working Group on the Working Methods and Activities of Transnational Corporations. Working paper by David Weissbrodt, Principles Relating to the Human Rights Conduct of Companies, U.N. Doc. E/CN.4/Sub.2/2000/WG.2/WP.1 (May 25, 2000).